United Nations A/HRC/39/NGO/82

General Assembly

Distr.: General
31 August 2018

English only

Human Rights Council
Thirty-ninth session
10-28 September 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), International-Lawyers.Org, Union of Arab Jurists, United Towns Agency for North-South Cooperation, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2018]

* Issued as received, in the language(s) of submission only.

GE.18-14384(E)
1814384

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Aid Workers, Children in Armed Conflict, and Statelessness in South Sudan – Current Issues for a Positive Future**

The civil war in South Sudan that began in December 2013 has claimed the lives of about 10,000 people and has displaced millions of others. The violent and armed conflict has largely been due to the dispute between Sudan People's Liberation Army (SPLA) led by current President, Salva Kiir, and Sudan People's Liberation Army in Opposition (SPLA-IO) led by First-Vice President, Riek Machar. Armed violence, horrendous human rights abuses, and grave violations have devastated the youngest country in the world.

In late August 2015, a peace deal was signed by President Kiir that included the establishment of a hybrid court that never came to fruition and the peace deal itself was also not adhered to as armed violence continued and spread across the country. In August 2018, a new peace deal was signed by the warring parties with hopes that both sides will respect and comply with the agreements set forth.

In light of these developments there are nonetheless urgent and serious issues that need to be dealt with in South Sudan. This statement addresses some of these concerns, namely, violent attacks against aid workers in South Sudan, the situation of children in armed conflict, and statelessness. These grave matters, among others, must be actively addressed especially for the sake of victims and people of South Sudan as they continue to struggle for peace and justice.

Aid workers in South Sudan

For the third straight year South Sudan tops the global list of violence against humanitarian operations making it the most dangerous country for aid workers. The "Aid Worker Security Report, 2018" recorded major attacks against aid workers where South Sudan accounted for almost one third of the 158 major violent incidents against aid workers. The major attacks in 2017 included killings by gunfire and aid worker kidnappings, to which they noted a sharp rise in 2016 in South Sudan as a result of the escalated violent conflict between the Sudan People's Liberation Army (SPLA) and the Sudan People's Liberation Army in-Opposition (SPLA-IO). In the past kidnappings were not as high and this rise suggests that this worrying trend is due to tactics by the armed groups to "assert control over aid operations".[1]

In 2017 reports also recorded increases in the detention of aid workers, which was attributed to the warring parties, as well as physical assaults and armed robberies.[2] As noted by Jan Egeland, the Secretary General of the Norwegian Refugee Council (NRC), this trend further complicates aid operations in South Sudan where thousands of innocent civilians are in desperate and urgent need of humanitarian aid. Since the conflict broke out, to date over one hundred aid workers have lost their lives where South Sudanese staff are the highest at risk. Moreover, the hardest to reach locations for aid are usually the most dangerous and at times relief organisations have had to pull out of such areas for security purposes – this is especially concerning as it means the most vulnerable are put in further peril as critical aid such as food and medicine are brought to a halt or suspended. Hundreds of thousands of victims to the devastating conflict urgently need such aid as many communities are on the brink of starvation and not only are they dependent on food and medicine due to their livelihoods destroyed by the warring parties but also because such aid would help restore their ways of living and reverse the famine they suffered in 2017 and 2018.[3]

Aid workers are protected under customary International Humanitarian Law (IHL), Article 71(2) of the Additional Protocols to the Geneva Conventions of 12 August 1949, under "Personnel participating in relief actions" states, "Such personnel shall be respected and protected"[4]. Furthermore, "intentionally directing attacks against personnel… involved in a humanitarian assistance" is considered a war crime under the Statute of the International Criminal Court Article 8(2)(b)(iii) in addition to grave breaches of the Geneva Conventions of 12 August 1949.[5]

Children in armed conflict

The release of over 900 child soldiers including girls this year 2018 alone from the ranks of Armed Groups in South Sudan and with additional releases expected in the coming months is a positive sign towards protecting the children and future of South Sudan.[6] Since the beginning of the civil war in 2015 over 19,000 children were recruited and used by both warring parties and other government security forces and armed groups further endangering them and exposing

[1] "Aid Worker Security Report: Figures at a Glance – 2018". Humanitarian Outcomes. www.aidworkersecurity.org
[2] https://reliefweb.int/report/south-sudan/south-sudan-declared-most-violent-aid-workers-third-straight-year
[3] https://reliefweb.int/report/south-sudan/south-sudan-declared-most-violent-aid-workers-third-straight-year
[4] Additional Protocol I, Article 71(2) (adopted by consensus) (cited in Vol. II, Ch. 8, § 3).
[5] ICC Statute, Article 8(2)(b)(iii)(*ibid*, § 142).
[6] https://childrenandarmedconflict.un.org/south-sudan-128-children-released-from-the-ranks-of-armed-groups/

them to high risks of being killed and maimed in the conflict between SPLA and SPLA-IO. Numerous incidents have been documented and reported of horrible violent attacks that killed and maimed hundreds of children and cases of sexual violence against girls are also on record.

The released children are undergoing a reintegration process that will eventually see them going back to their homes and schools. Vocational training will also be provided with the aim of improving household income and food security.[7] In addition to these positive steps forward and providing educational and other opportunities to children the government, social services, and especially communities must ensure that they also have the opportunity to undergo the necessary mental and physical therapy in order to heal from traumatic experiences and episodes for both boys and girls.

Human Rights education for children in novel and creative ways must be integrated into schools and other places of learning in order to ensure that children from an early age are aware and have the knowledge about their human rights. Education is always a crucial and absolutely necessary step towards preventing human rights violations such as recruitment and enrolment of child soldiers in armed conflicts – notwithstanding the role and responsibility of the government and other relevant services to promote and most importantly to protect people's human rights.

Statelessness in South Sudan

Right after South Sudan's independence a decision was taken by the Republic of Sudan to revoke nationality of individuals qualified for South Sudanese nationality leaving many at risk of statelessness. Administrative challenges and poverty have created problems thus increasing populations' risk of statelessness – these impediments must be immediately addressed. [8] Unfortunately, South Sudan is currently not party to the 1954 Convention Relating to the Status of Stateless Persons nor the 1961 Convention on the Reduction of Statelessness, additionally, the 2011 Nationality Act does not address statelessness and there is no statelessness determination procedure in South Sudan.

The repercussions of statelessness in South Sudan can truly affect a person's life as their status will lead to the loss of access to basic rights and services such as education. Furthermore, they suffer political, economic, and social deprivations and pay higher taxes. These disadvantages together with the denial of basic rights and services indirectly leads to arrests and evictions among other hardships.[9]

South Sudan Peace Deal

While any peaceful steps towards ending the conflict and moving towards peace is welcomed there is much concern that the final Peace Deal signed on August 5, 2018 in Khartoum with the third round of talks taking place on 13 August, regarding power-sharing and security arrangements, may be difficult to maintain especially considering the weight of the transitional government consists of five vice-presidents, 35 cabinet ministers, and a transitional national legislative body comprised of 550 legislators.

Furthermore, those who are part of the problem are in power and as long as they maintain their status it is uncertain and unlikely that justice will be guaranteed. In light of this, the international community must be involved in the Peace Talks and especially with regards to the establishment and functioning of the hybrid court – as a former judge and the first woman and current appointed judge in Protection of Civilians Camp (POC3) Rebecca Nyadir noted, "*It will help us in the healing of the country*".[10]

Conclusion

The Peace Deal of August 2018 is certainly a welcomed step towards peace but must be critically acclaimed and scrutinized for its success. With this regard the Peace Deal must also have the people of South Sudan in its best interest and must address the very serious issue of statelessness, children in armed conflict, and aid workers in South Sudan.

Recommendations

Human Rights Council

- *Urge* the international community and all relevant UN bodies to reinforce and enhance security measures towards humanitarian aid operations in South Sudan, especially the most vulnerable and remote areas.

7 https://childrenandarmedconflict.un.org/south-sudan-128-children-released-from-the-ranks-of-armed-groups/
8 https://reliefweb.int/report/south-sudan/study-statelessness-south-sudan-2017
9 http://www.refworld.org/docid/5b1112d54.html
10 https://www.aljazeera.com/indepth/features/south-sudan-internally-displaced-create-system-justice-180718153818625.html

Government of South Sudan

- *Ensure* that aid personnel in the country are respected and protected with respect to International Humanitarian Law, the Geneva Conventions and its Additional Protocols and Statute of the International Criminal Court; and further increase and improve security routes and measures towards such personnel.
- *Sign and ratify* the 1954 Convention Relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.
- *Release* all remaining child soldiers from Army Ranks and *prioritize* special health and education concerns of those released.

International Community

- *Ensure* security measures towards humanitarian workers is included in the Peace Deal as well as accountability for perpetrators who attack aid workers and justice for the victims.
- *Guarantee* that the Peace Deal includes remedy for the victims of grave human rights violations, serious abuses, and war crimes.

**Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), Association of Humanitarian Lawyers (AHL), NGOs without consultative status, also share the views expressed in this statement.